

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **06-MSRC-007**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

FINAL ORDER FOR VICTOR NEWSOME

STEVEN R. LESTER, WILLIAM G. RATLIFF,
MICKY STAPLETON & VICTOR NEWSOME

RESPONDENTS

* * * * *

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondent Victor Newsome, and the members of the Commission having reviewed the Settlement Agreement filed on June 6, 2006 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:

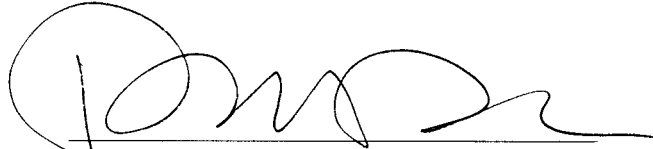
1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and pre-hearing conference are **CANCELLED**;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**.

A copy is attached hereto;

4. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.
5. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
7. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy

of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 8TH day of June 2006.

A handwritten signature in black ink, appearing to read 'DM Davidson', written over a horizontal line.

Denise Moore Davidson, Chair
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 8TH day of June 2006:

WILLIAM G. RATLIFF
1303 ROCKY ROAD
PIKEVILLE KY 41501-8010

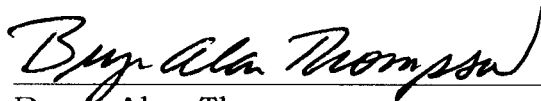
VICTOR NEWSOME
300 SLONE HOLLOW ROAD
BEAVER KY 41604-6314

And by messenger mail to:

JENNIFER CABLE SMOCK
OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
#2 HUDSON HOLLOW
FRANKFORT KY 40601
502/ 564- 2356
FAX 502/ 564 - 9212
Attorney for OMSL

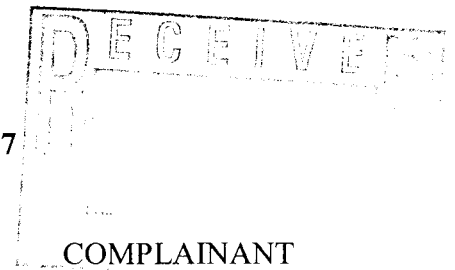
And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601

A handwritten signature in black ink, reading "Bryon Alan Thompson", written over a horizontal line.

Bryon Alan Thompson
Hearing Officer & General Counsel
Mine Safety Review Commission

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 06-MSRC-007



COMMONWEALTH OF KENTUCKY
OFFICE OF MINE SAFETY AND LICENSING

VS.

SETTLEMENT AGREEMENT BETWEEN OMSL
AND VICTOR NEWSOME

STEVEN LESTER, WILLIAM G. RATLIFF,
MICKEY STAPLETON and VICTOR NEWSOME

RESPONDENTS

Comes the Complainant, the Kentucky Office of Mine Safety and Licensing ("OMSL"), and Respondent, Victor Newsome ("Newsome"), and hereby state that they have agreed to a settlement of the above styled disciplinary proceeding, according to the following terms:

In consideration for the final resolution of this action against him, and the cancellation of the hearing as it pertains to him that is currently scheduled for June 8, 2006, Newsome hereby admits that he was the electrician at the Ivy Fork Mining, LLC No. 1 mine prior to October 15, 2005. OMSL has alleged that Newsome was responsible for the violations of the Kentucky Mine Safety Laws regarding electrical violations that were cited in its October 17, 2005 inspection. Therefore, Newsome agrees to the following:

1. Newsome agrees to the probation of his electrical worker's certificate (#PE-604-05), underground coal miner's certificate, underground mine foreman's certificate (#A-118-04), shot firer-conventional certificate (#MN-08-91J), mining instructor-underground certificate (#MI-18-95), gas detection certificate (#MN-107-89) and belt examiner's certificate (#MN-15-94) for a period of five (5) years effective upon the approval and entry of this Settlement Agreement by the Mine Safety Review Commission.

2. During this five-year probationary period, Newsome shall comply with all state

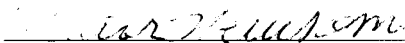
and federal mine safety laws and regulations. The willful violation by Campbell of any of said laws and regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke his electrical worker's certificate for the remainder of the probationary period.

3. Within forty-five (45) days of the effective date of this Settlement Agreement, Newsome must take eight (8) hours of special safety training from OMSL at its Pikeville District Office.


4. Newsome further agrees that this Settlement Agreement and any final order issued herein by the Mine Safety Review Commission will be considered by the Commission to constitute a "first offense" as that term is defined at 805 KAR 8:010, Section 1(13).

5. Newsome understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Newsome further states that he has carefully read this Settlement Agreement (or that the Settlement Agreement has been read to him), that he carefully considered the Agreement prior to signing it and that he understands and agrees to its terms and provisions.

6. OMSL and Newsome acknowledge and agree that there are no further promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.


VICTOR NEWSOME, Respondent
P.O. Box 618
Harold, Kentucky 41635

6-2-6
DATE


JOHNNY GREENE, Acting Exec. Director
Ky. Office of Mine Safety and Licensing
P.O. Box 2244
Frankfort, Kentucky 40602

6-5-06
DATE